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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,437	10/28/2003	Dieter Brinkkotter	7315	4464

55740 7590 11/23/2005  
GAUTHIER & CONNORS, LLP  
225 FRANKLIN STREET  
BOSTON, MA 02110

EXAMINER

BERGERON, ROLAND C

ART UNIT PAPER NUMBER

3635

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/695,437	BRINKKOTTER, DIETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Roland Bergeron	3635	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/28/2003</u> .  | 6) <input type="checkbox"/> Other: ____                                     |

### DETAILED ACTION

1. Claims 1-10 have been examined.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1, 5, 6, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,6006,834 B2 to Martensson et al. in view of U.S. Patent 4,557,091 to Auer.

With regard to claims 1, 6 and 8, Martensson et al. shows in Figures 1-12 and discloses in the specification (column 2, lines 1-51 and column 4, lines 35-67), a panel 1 that is made of extruded material (thermoplastic, aluminum etc) with longitudinal sides in edge regions 14, 16 being form of solid sections with tongue and groove profiles 6, 7. However, Martensson et al. does not show the panel 1 has having a hollow section with multiple inner chambers in the center region that are channel like having rectangular

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cross-sections. Auer does show in Figure 1 and discloses in the specification (column 1, lines 1-68 and column 2-13), a panel 12 with a center region formed of multiple hollow inner chambers (areas formed by walls 20 and rib 22) that are formed in channels with rectangular cross-sections. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to be motivated to change center region of the panel and the solid section edge regions of the panel by Martensson et al. as modified by Auer to include hollow inner rectangular section chambers/channels and hollow edge section regions that would be lighter in weight while saving on materials for making the panel.

With regard to the dimension specified, in claim 5, width of the solid sections at the edge regions, the applicant claims the dimensions for the width of these sections that range between 1 cm and 10 cm. This appears to be a very wide range. The dimensions claimed by the applicant appear to be a design choice developed by basic engineering practices and not a critical aspect of the claimed invention. Therefore, it would have been obvious to one of ordinary skill in the art to select the appropriate width for the solid sections to support the tongue and groove profile to range between 1 cm and 10 cm.

With regard to the dimension specified, in claim 7, thickness of the inner chambers located between the outer walls, the applicant claims the dimensions for the thickness that ranges between .2 cm and 3 cm. This appears to be a very wide range. The dimensions claimed by the applicant appear to be a design choice developed by basic engineering practices and not a critical aspect of the claimed invention. Therefore,

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it would have been obvious to one of ordinary skill in the art to select the appropriate thickness for these inner chambers between .2 cm and 3 cm.

4. Claims 2, 3, 4, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martensson et al. in view of Auer as applied to claims 1, 5, 6, 7 and 8 above, and further in view of U.S. Patent 6,890,637 B2 to Baker.

Martensson et al. and Auer do not discuss a panel element fabricated from a mixture of natural materials, polypropylene and cement where the exterior of the panel is color coated.

With regard to claims 2, 3 and 4, Baker discloses in the specification (column 3, lines 15-67, column 4-6, 1-67 and column 7, lines 1-22) a composite panel 80 made of natural materials (wood fibers and agricultural by products) that includes 30% mixture of polypropylene and a bonding agent called Maleic anhydride (cement) for increasing the strength of the composite material.

With regard to claim 9, Baker discloses in the specification (column 7, lines 10-22), the use of a dye material (color coating) to add color to the composite panel element 80.

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to be motivated to change the panel element of Martensson et al. as modified by Auer and further modified by Baker to provide a composite material that can be shaped, colored, and texture like wood and should be less expensive to fabricate.

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5. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martensson et al. in view of Auer as applied to claims 1, 5, 6, 7 and 8 above, and further in view of U.S. Patent 6,233,892 B1 to Tylman.

Martensson et al. and Auer do not discuss a panel element with inner chambers filled with an insulating material.

Tylman shows in Figures 1-2, 4, 5, 8-9, and discloses in the specification (column 2, lines 64-67, column 3, lines 23-26), a panel element 10 with multiple inner chambers (15 holes) filled with insulating material (16 foam).

Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to be motivated to add to the panel element of Martensson et al. as modified by Auer and further modified by Tylman by adding insulating material to the inner chambers to enhance/improve the thermal and sound insulation properties of the panel element.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roland Bergeron whose telephone number is (571) 272-2943. The examiner can normally be reached on 7:30 am - 5:00 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RCB 

11/16/05

  
**Carl D. Friedman**  
**Supervisory Patent Examiner**  
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